

THE HONORABLE JOHN C. COUGHENOUR

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

JESUS RINCON-MEZA,

Defendant.

CASE NO. CR19-0062-JCC

ORDER

This matter comes before the Court on Defendant's second motion to dismiss the indictment (Dkt. No. 50). On March 28, 2019, Defendant was indicted for: one count of possession of explosive material by an unlawful alien in violation of 18 U.S.C. § 842(i)(5), and one count of possession of firearms by an unlawful alien in violation of 18 U.S.C. § 922(g)(5). (Dkt. No. 20.) On June 21, 2019, the United States Supreme Court issued its opinion in *Rehaif v. United States*, 139 S. Ct. 2191 (2019). In *Rehaif*, the Supreme Court held that in a prosecution under 18 U.S.C. § 922(g), the Government must prove that the defendant knowingly violated the material elements of the statute, including both his possession of a firearm and his status that renders such possession illegal. *See* 139 S. Ct. at 2195–96. The Supreme Court did not address prosecutions under 18 U.S.C. § 842(i)(5). *See id.* at 2194–97.

On July 17, 2019, Defendant moved to dismiss the indictment. (Dkt. No. 50.) Defendant argued that the indictment failed to allege the essential elements of the charged offenses in light

1 of *Rehaif*. (See *id.* at 1–2.) On July 31, 2019, the Government filed a superseding indictment that
2 purportedly complies with *Rehaif* by alleging Defendant’s knowledge of his unlawful status and
3 his possession of a firearm in violation of 18 U.S.C. § 922(g)(5). (See Dkt. No. 52 at 2.) The
4 superseding indictment’s allegations as to 18 U.S.C. § 842(i)(5) mirrors those of the original
5 indictment, as *Rehaif* did not address prosecutions under that statute. (Compare *id.* at 1, with Dkt.
6 No. 20 at 1); see *Rehaif*, 139 S. Ct. at 2194–97. In light of the superseding indictment that
7 complies with the requirements of *Rehaif*, Defendant’s motion to dismiss the original indictment
8 on that basis (Dkt. No. 50) is DENIED.

9 DATED this 6th day of August 2019.

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A handwritten signature in black ink, reading "John C. Coughenour", written over a horizontal line.

John C. Coughenour
UNITED STATES DISTRICT JUDGE